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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,896	02/03/2004	Jentje Deelstra	04132.0029.00US00	9174
32894	7590	07/26/2005	EXAMINER	
HOWREY LLP C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DR., SUITE 200 FALLS CHURCH, VA 22042			SWIA TEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/769,896

Applicant(s)

DEELSTRA, JENTJE

Examiner

Robert P. Swiatek

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18, 20 and 22 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9, 14, 16, 17, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 3-7, 10-13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9, 14, 19, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Forsen et al. (US 6,386,141: Ref. A1 on Information Disclosure Statement). The Forsen et al. milking apparatus includes a first robot arm construction portion 3 pivotably connected via horizontal hinge 7 to fencing 2, a second robot arm construction portion 4 pivotably connected via pivot means 9 to the first robot arm construction, a third robot arm construction 16 apparently rigidly connected to a distal end of arm construction 4 and capable of gripping a teatcup 15, and a teat locating element 18. A first actuator 8c (see Figure 3 of Forsen et al.) has a first point of application 10b on tubular member 10 of the first robot arm construction and a second point of application 11a on the second robot arm construction 4, while a second actuator 8b has a point of application on the second robot arm construction portion and crosses first actuator 8c in close proximity thereto; as can be seen from Figure 3 of Forsen et al., the second point of application 11a is below both hinge 7 and the first point of application 10b. As to claim 8, the first point of application 10b is substantially coincident with the pivot means 9.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3643

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forsen et al. While the third robot arm construction portion 16 of Forsen et al. is not disclosed as being pivotably connected to the second robot arm construction portion, it would have been obvious to one skilled in the art to employ a pivotable connection between the two in order to obtain quicker and more accurate placement of the teat cup on the cow by increasing element 16's dexterity and range of motion.

In claim 21, line 1, the term –portion– should be inserted after “construction.”

Claims 3-7, 10-13, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 6 May 2005 have been fully considered but they are not persuasive. Claims 1, 2, 8, 9, 14, 16, 17, 19, 21 are not believed allowable for the reasons set forth above.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3643

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Summary: Claims 1, 2, 8, 9, 14, 16, 17, 19, 21 have been rejected; claims 3-7, 10-13, 15 have been objected to; claims 18, 20, 22 have been allowed.

RPS: 0571/272-6894

14 July 2005

*Robert P. Swiatek*

ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643